



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

JAN - 8 2020

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Bruce Blessing, Owner  
Blessing Greenhouses and Compost Facility  
9372 Draper Road  
Milford, DE 19963

**Re: Opportunity to Show Cause Regarding Alleged Violations of the Clean Water Act,  
Section 301**

Dear Mr. Blessing:

On November 5, 2018, the United States Environmental Protection Agency, Region III ("EPA" or "Agency") conducted an inspection at Blessing Greenhouses and Compost Facility located at 9372 Draper Road in Milford, Delaware (the "Facility"). The inspection was conducted pursuant to Section 308(a) of the Clean Water Act ("CWA"), 33 U.S.C. § 1318(a), to determine the Facility's compliance with Section 301 of the CWA, 33 U.S.C. § 1311 and its National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Industrial Activity ("General Permit") issued pursuant to Section 9.1 of Delaware's Regulations Governing the Control of Water Pollution, 7 Del. Admin. C. § 7201-9.1 ("DE Stormwater Regulations"). Based on the observations made at the time the inspection, EPA believes that the Facility may not be in compliance with Section 301 of the CWA, 33 U.S.C. § 1311 and its General Permit. EPA is writing to provide you with the opportunity to demonstrate to EPA that the Facility is in compliance with the CWA.

You are an owner and operator of Blessing Greenhouses and Compost Facility, as those terms are defined in Section 2.0 of the DE Stormwater Regulations, 7 Del. Admin. C. § 7201-2.0. The Facility is engaged in "industrial activity" within the meaning of 7 Del. Admin. C. § 7201-9.1 and 40 C.F.R. § 122.26(b)(14). As an owner and operator of an industrial facility, you are subject to the requirements of Section 301 of the CWA, 42 U.S.C. § 1311 and Section 9.1 of the DE Stormwater Regulations, 7 Del. Admin. C. § 7201-9.1.

The Facility is operating under the General Permit for industrial storm water, which permits the Facility to discharge storm water to Slaughter Creek in compliance with Section 9.1 of the DE Stormwater Regulations. The General Permit incorporates your Storm Water Plan ("SWP") pursuant to Section 9.1.5.1.1 of DE Stormwater Regulations, 7 Del. Admin. C. § 7201-9.1.5.1.1 and requires you to implement "practices and programs which are used to reduce or eliminate the pollutants in storm water discharges" from your Facility.

The Facility is approximately 16.63 acres and has two maintenance shops, eleven greenhouses, an office, and other miscellaneous buildings. The Facility also contains a pre-compost materials pile, a compost materials pile, staging areas, and additional non-compost piles of various materials, including dirt, vegetation and stone. There are two stormwater outfalls at the Facility. Outfall #1 is used primarily for stormwater flow from the Facility access roads and parking area. Outfall #2 is a section of land with

a vegetated buffer leading to Slaughter Creek. Stormwater is also collected in five sumps where it is then drained by a vac truck and removed offsite to be used in spray irrigation.

At the time of the inspection, inspectors observed that a dumpster on site was not covered, several piles of materials were not fully enclosed by concrete walls as denoted in the SWP map, compost material had breached the surrounding containment structures, and significant amounts of stormwater present onsite resulted in flooding of the sumps, depressions and concrete pit. Inspectors also observed that you have failed to conduct required sampling and inspections and failed to keep adequate records of these activities pursuant to your SWP and your General Permit.

Non-compliance with your SWP and General Permit is a violation of Section 301 of the CWA, 33 U.S.C. § 1311 and enforceable by EPA pursuant to Section 309(a) of the CWA, 33 U.S.C. § 1319(a).

### **OPPORTUNITY TO SHOW CAUSE**

Prior to any determination as to whether it will issue an administrative complaint to you, EPA, by this letter, is giving you an opportunity to explain why the Agency should not file a Complaint against you. To take advantage of this opportunity, you should respond to EPA's allegations within **twenty-one (21) calendar days** of receiving this letter. Your response should include any relevant documents you believe EPA should consider.

If you and EPA are able to agree to resolve the Facility's non-compliance and finalize a settlement within ninety (90) calendar days from the date of receipt of this letter, then the Agency would not file a Complaint.

If you do not respond to EPA's offer within **twenty-one (21) calendar days** of receiving this letter, EPA reserves the right to unilaterally pursue an enforcement action to address the violations described in this letter without further advance notice to you. If EPA pursues an enforcement action, you will receive instructions that describe your right to dispute EPA's claims. If you have any questions regarding this letter or the enclosed documents, please call Michael Greenwald, at (215) 814-2398, or have your attorney call Hannah Leone, Assistant Regional Counsel, at (215) 814-2673. Written questions and correspondence relating to this matter should be directed to the attorney assigned to represent EPA:

Hannah Leone  
Assistant Regional Counsel (3RC30)  
U.S. Environmental Protection Agency, Region III  
1650 Arch Street  
Philadelphia, PA 19103  
Tel: (215) 814-2673  
Email: leone.hannah@epa.gov

You must also include, as part of any submission of information or documentation to EPA pursuant to this Request to Show Cause, the following certification, signed and dated:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this response to the Request to Show Cause and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining or compiling the information, I believe that the submitted information is true, accurate, and

complete. I recognize that there are significant penalties for submitting false and/or misleading information, including the possibility of fines and/or imprisonment (18 U.S.C. § 1001).

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Pursuant to the regulations set forth at 40 C.F.R. Part 2, Subpart B, you are entitled to assert a business confidentiality claim covering any part of the submitted information, subject to EPA's evaluation of the information's confidential status. Unless such a confidentiality claim is asserted at the time the required information is submitted, EPA may make this information available to the public without further notice to you. Information subject to a business confidentiality claim may be made available to the public only to the extent set forth in the above-cited regulations. Any such claim for confidentiality must conform to the requirements set forth in 40 C.F.R. § 2.203(b).

EPA has not determined whether you are operating as a "small business" under the Small Business Regulatory Enforcement and Fairness Act ("SBREFA"). Please see the Small Business Information Sheet enclosed with this letter. The enclosed sheet provides information on (1) contacting the SBREFA Ombudsman to comment on Federal enforcement and compliance activities and (2) compliance assistance. As noted in the enclosure, any decision to participate in such program or to seek compliance assistance does not relieve you of your obligation to respond in a timely manner to an EPA information request or other enforcement action and does not create any new rights or defenses under law.

Should you fail to provide information that would prove that the non-compliance did not occur, and you and EPA fail to enter into a settlement agreement in this matter, EPA reserves the right seek compliance in litigation. Please be advised that violations of Section 301 of the CWA may also be subject to civil penalties under Section 309(d) of the CWA, 33 U.S.C. § 1319(d).

Sincerely,



Karen Melvin, Director  
Enforcement & Compliance Assurance Division

Enclosure

cc: Hannah Leone (EPA 3RC30)  
Michael Greenwald (EPA 3ED32)  
Bryan Ashby (DNREC)

## U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

### Office of Small and Disadvantaged Business Utilization (OSDBU)

[www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu](http://www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu)

EPA's OSDBU advocates and advances business, regulatory, and environmental compliance concerns of small and socio-economically disadvantaged businesses.

### EPA's Asbestos Small Business Ombudsman (ASBO)

[www.epa.gov/resources-small-businesses/asbestos-small-business-ombudsman](http://www.epa.gov/resources-small-businesses/asbestos-small-business-ombudsman) or 1-800-368-5888

The EPA ASBO serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

### Small Business Environmental Assistance Program

<https://nationalsheap.org>

This program provides a "one-stop shop" for small businesses and assistance providers seeking information on a wide range of environmental topics and state-specific environmental compliance assistance resources.

### EPA's Compliance Assistance Homepage

[www.epa.gov/compliance](http://www.epa.gov/compliance)

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

### Compliance Assistance Centers

[www.complianceassistance.net](http://www.complianceassistance.net)

EPA sponsored Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

#### Agriculture

[www.epa.gov/agriculture](http://www.epa.gov/agriculture)

#### Automotive Recycling

[www.ecarcenter.org](http://www.ecarcenter.org)

#### Automotive Service and Repair

[www.ecar-greenlink.org](http://www.ecar-greenlink.org) or 1-888-GRN-LINK

#### Chemical Manufacturing

[www.chemalliance.org](http://www.chemalliance.org)

#### Construction

[www.cicacenter.org](http://www.cicacenter.org)

#### Education

[www.campuserc.org](http://www.campuserc.org)

#### Food Processing

[www.fpeac.org](http://www.fpeac.org)

#### Healthcare

[www.hercenter.org](http://www.hercenter.org)

#### Local Government

[www.lgean.org](http://www.lgean.org)

#### Surface Finishing

<http://www.stere.org>

#### Paints and Coatings

[www.paintcenter.org](http://www.paintcenter.org)

#### Printing

[www.pneac.org](http://www.pneac.org)

#### Ports

[www.portcompliance.org](http://www.portcompliance.org)

### Transportation

[www.tercenter.org](http://www.tercenter.org)

### U.S. Border Compliance and Import/Export Issues

[www.bordercenter.org](http://www.bordercenter.org)

### EPA Hotlines and Clearinghouses

[www.epa.gov/home/epa-hotlines](http://www.epa.gov/home/epa-hotlines)

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Examples include:

### Clean Air Technology Center (CATC) Info-line

[www.epa.gov/cata](http://www.epa.gov/cata) or 1-919-541-0800

### Superfund, TRI, EPCRA, RMP, and Oil Information Center

1-800-424-9346

### EPA Imported Vehicles and Engines Public Helpline

[www.epa.gov/otaq/imports](http://www.epa.gov/otaq/imports) or 1-734-214-4100

### National Pesticide Information Center

[www.npic.orst.edu](http://www.npic.orst.edu) or 1-800-858-7378

**National Response Center Hotline** to report oil and hazardous substance spills - <http://nrc.uscg.mil> or 1-800-424-8802

### Pollution Prevention Information Clearinghouse (PPIC) -

[www.epa.gov/p2/pollution-prevention-resources/ppic](http://www.epa.gov/p2/pollution-prevention-resources/ppic) or 1-202-566-0799

### Safe Drinking Water Hotline -

[www.epa.gov/ground-water-and-drinking-water/safe-drinking-water-hotline](http://www.epa.gov/ground-water-and-drinking-water/safe-drinking-water-hotline) or 1-800-426-4791

### Toxic Substances Control Act (TSCA) Hotline

[tsc hotline@epa.gov](mailto:tsc hotline@epa.gov) or 1-202-554-1404

## Small Entity Compliance Guides

<https://www.epa.gov/reg-flex/small-entity-compliance-guides>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

## Regional Small Business Liaisons

[www.epa.gov/resources-small-businesses/epa-regional-office-small-business-liaisons](http://www.epa.gov/resources-small-businesses/epa-regional-office-small-business-liaisons)

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

## State Resource Locators

[www.envcap.org/statetools](http://www.envcap.org/statetools)

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

## State Small Business Environmental Assistance Programs (SBEAPs)

<https://nationalsbeap.org/states/list>

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

## EPA's Tribal Portal

[www.epa.gov/tribalportal](http://www.epa.gov/tribalportal)

The Portal helps users locate tribal-related information within EPA and other federal agencies.

## EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

### EPA's Small Business Compliance Policy

[www.epa.gov/enforcement/small-businesses-and-enforcement](http://www.epa.gov/enforcement/small-businesses-and-enforcement)

### EPA's Audit Policy

[www.epa.gov/compliance/epas-audit-policy](http://www.epa.gov/compliance/epas-audit-policy)

## Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

## Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

*EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.*